

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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C.C. No. 383 of 2012
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Between:

P.V. Sreenivas Acharyulu .. Petitioner

And

Aruproy Choudhury
and four others .. Respondents

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Date of Judgment Pronounced: 07.08.2015

SUBMITTED FOR APPROVAL:

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HON'BLE SRI JUSTICE G. CHANDRAIAH

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1. Whether Reporters of Local newspapers
may be allowed to see the judgments? Yes/No

2. Whether the copies of judgment may be
marked to Law Reporters/Journals Yes/No

3. Whether Their Ladyship/Lordship wish to
see the fair copy of the judgment? Yes/No

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ORDER :-

This contempt case is instituted alleging willful disobedience on the part of the respondents in complying with the order dated 15.12.2011 passed by this Court in W.P.M.P.No. 40809 of 2011 in W.P.No. 32834 of 2011 whereby interim direction was granted to the respondents to consider the seniority, qualifications, performance of the petitioner for promotion to his corresponding next higher grade in the year 2012 by reviewing the performance scores from 2007 onwards till the date of filing the writ petition before the Regional Promotion Committee (for brevity “the Committee”) proceeds to declare promotions for the year 2012.

The learned counsel for the contempt petitioner has contended that as per the Rules of the National Thermal Power Corporation, the petitioner is entitled to promotion to E2 grade in 2004, and by the time he filed the writ petition, he was entitled to promotion in the category of E6 grade, but the respondents have neither taken any steps to give promotion to the petitioner nor complied with the interim order dated 15.12.2011 passed by this Court.

The 1st respondent – chairman and Managing Director of the Corporation, has stated in his counter that he deals with the policy matters of the respondent – Corporation and is not a proper party to the Committee.

The 2nd respondent – Director - HR, NTPC has set out in the counter that the petitioner has not met the eligibility criteria of acquiring requisite marks in the merit-cum-seniority list as per the policy of the Corporation, as such, the Committee having considered the petitioner's case found that he was not suitable for promotion and did not recommend his case for promotion.

The 3rd respondent – Regional Executive Director has averred in his counter that he was not a party to the proceedings of the Committee and resigned services in NTPC on 06.04.2012 for better prospects.

Respondent Nos.4 and 5 - General Managers, Ramagundam Super Thermal Power Project and Simhadri Thermal Power Projects, NTPC, respectively have categorically asserted in their counters that they are members of the Committee for the year 2012 and the petitioner and the other executive viz. Sri Ramakrishna Visai, Asst. Accounts Officer got equal marks. It is further stated that when there is a tie between two or more executives, then the Committee breaks the tie by allocating one mark by following the criteria as mentioned hereunder:

- a) Educational qualification would be given first priority.

- b) Date of Entry in the grade will have second priority if the tie is not broken in the above case.
- c) Date of birth/age of the employee will be given the next priority to break the tie”.

It is further asserted that in accordance with the policy of the N.T.P.C. this respondent and members of the Committee have examined the cases of both the petitioner and Ramakrishna Visai by following the above procedure and found that educational qualifications of Sri Ramakrishna Visai are higher and better than those of the petitioner, as such, awarded one additional mark to Sri Ramakrishna Visai, and inasmuch as the petitioner has not secured the required marks in the merit-cum-seniority list based on the above criteria, the Committee did not find him suitable for promotion and could not recommend his case for promotion, thereby, the case of the petitioner was considered as per records and rejected.

The 5th respondent in his additional counter has set out that the case of the petitioner was considered and rejected as he was not selected and the results were kept in the website as per the prescribed procedure and also displayed on the notice board, as such, it is not the case of non-compliance with the interim direction given by this Court.

Heard Sri M.V.Mani Sekhar, learned counsel for the petitioner and Smt.G.Sudha, learned counsel for the respondents and perused the material placed on record.

From the above factual position, it is to be seen

whether the respondents have complied with the impugned interim order of this Court or not?

This Court, on 15.12.2011, passed the following interim order in W.P.M.P.No. 40809 of 2011 in W.P.No. 32834 of 2011:

“There shall be interim direction as prayed for.”

Respondent Nos.4 and 5 have categorically asserted in their counter affidavits that the case of the petitioner has been considered by the Committee in accordance with the policy of the Corporation. There is no dispute whatsoever as to the consideration of the petitioner's case by the Committee, however the petitioner's grievance as set out in his reply affidavit is that the Committee, without reviewing the petitioner's performance scores from 2007 onwards, compared his case to a lower grade employee and did not derive his corresponding next higher grade, as such, they failed to consider his case in proper perspective. Here, it is to be noticed that in contempt proceedings, this Court, in exercise of its jurisdiction under Sections 10 to 12 of the Contempt of Courts Act, 1971 does not adjudicate the issue whether the petitioner's case is properly considered or improperly considered inasmuch as the purport of the order alleged to have not been complied with by the respondents, is only an interim direction to the respondents to consider the petitioner's case. From a careful perusal of the averments made in counter affidavits of respondent Nos.4 and 5, it can be

safely inferred that the respondents did consider the case of the petitioner in all respects in the light of the record and policy of the respondent – Corporation by following the prescribed procedure and awarded one mark to Sri Ramakrishna Visai for the reason that his educational qualifications are higher than those of the petitioner and in the matter of assessing the petitioner's ability in respect of his promotion, he is found to have not secured the required marks in the merit-cum-seniority list, as such, his case was rejected. Further, on considering the case of the petitioner on par with other eligible candidates, results were kept in the website and also displayed on the notice board as is evident from the additional counter filed by the 5th respondent.

On the above analysis, this Court is of the view that no contempt much less willful contempt can be alleged against the respondents in complying with the order dated 15.12.2011 passed by this Court.

Hence, this Contempt Case is closed. No order as to costs.

As a sequel to the closure of the Contempt Case, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

07.08.2015

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